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December 16, 1987

Ms. Evelyn Sullivan
Freedom of Information Act Officer
United States Environmental
Agency - Region I
John F. Kennedy Federal Building
- RPA - 2203
Boston, MA 02203

Dear Ms. Sullivan:

Pursuant to the Freedom of Information Act, 5 U.S.C. §552 and EPA's regulations at 40 C.F.R. Part 2, I hereby request a copy of the Ebasco Draft Report on Remedial Technologies which is referenced in the attached letter from Ellen Mahan, trial attorney for the Environmental Enforcement Section of the Department of Justice. This Ebasco Draft Report on Remedial Technologies has been prepared in a context of the remedial investigation and feasibility study being conducted by EPA for the New Bedford Harbor. This study will be in the possession of Frank Ciavattieri, Project Manager for the New Bedford Superfund Site and Charles Bering, Esq., Regional Counsel at EPA Region I.

If for any reason you determine that some portions of the requested documents or information are exempt from disclosure under the FOIA, please delete any such allegedly exempt material, inform me of the basis for the exemption claimed, and furnish copies of those portions of the documents that are not exempt. My consent to such deletion at this time is designed to facilitate your prompt response and in no way waives my right to appeal any determination you may make concerning the applicability of any FOIA exemptions to the requested documents and information.

I request that you provide me with exact copies of the requested documents, or where no actual official documents exists, a complete and accurate account of the information

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requested. I agree to pay reasonable search and reproduction costs; however, if these costs will exceed \$100, I request you notify me before reproducing these documents.

If you have any questions about this request or require further information, please contact me at the above-referenced telephone number.

Sincerely yours,


John Quarles

LSR/clb

cc: Paul B. Galvani, Esq., Ropes & Gray
Verne W. Vance, Esq., Foley, Hoag & Eliot
Daniel J. Gleason, Esq., Nutter, McClennen & Fish
David McLaughlin, Esq., McLaughlin & Folan
Ellen M. Mahan, Esq., Dept. of Justice
Charles Bering, U.S. Environmental Protection
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Washington, D.C. 20530

December 4, 1987

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RE: New Bedford Harbor Remedial
Investigation/ Feasibility Study

Dear Counsel:

This is in response to your letter of August 6, addressed to William Brighton, Charles Bering, and Lee Breckenridge. We welcome your interest in meeting to discuss the progress of the RI/FS. We believe that the recent release of the Corps of Engineers' report on the planned pilot study, and Ebasco's draft report on remedial technologies, offers a good opportunity for such a meeting. We would, therefore, be willing to meet to discuss the reports. *

Certain of the statements in your letter of August 6 may also be responded to at this time. First, you suggest that EPA has "prematurely focused potential remedial action on dredging alternatives", and that "under the best of conditions [dredging is not] likely to lead to a permanent solution, consistent with the statutory preference of SARA." In fact, EPA, with its contractors Ebasco and E.C. Jordan, and the Corps of Engineers are continuing to study non-dredging remedies, as our reports show. You should note, however, that most treatment or destruction remedies first require dredging and removal to some form of containment structure.

Second, you state that a widespread dredging approach "is neither environmentally nor technically sound." It should be

clear that EPA and the Corps are not planning to select a dredging alternative without first assessing all the technical and environmental problems which dredging might pose. The study costs to which you refer in your letter are being undertaken for that precise purpose -- to explore and evaluate those potential problems.

Third, you state that "defendants have evidence" that biodegradation is occurring in New Bedford Harbor. We are aware generally of the theories of Dr. Brown, Aerovox's expert, concerning natural biodegradation. But the defendants have so far been unwilling to come forward with certain specific supporting documents on this matter, in spite of months of inquiries from us. We began requesting supporting documentation in a letter to Paul Galvani dated December 3, 1986, and repeated our requests in a January 8, 1987 telephone call to Mr. Galvani, and in a motion to compel (US-11), which Mr. Galvani has opposed. On February 25, 1987, E.C. Jordan requested information from the General Electric Company (GE) concerning research which might be relevant to New Bedford, and GE replied on April 16 that we should contact Mr. Galvani. Charles Bering sent Mr. Galvani a letter dated May 26, 1987, in which he invited Aerovox to submit evidence for EPA's consideration in its RI/FS, and Mr. Bering reiterated that request in a second letter dated August 3, 1987. In addition, William Brighton sent Mr. Galvani a letter on June 2 requesting specific documents, and Charles Bering sent Mr. Galvani a letter on June 23 requesting split portions of samples taken by Aerovox and analyzed by GE.

We can only re-iterate the sentiment in Charles Bering's May 26 letter, that EPA cannot consider material which it has not received, nor can it effectively evaluate summary conclusions which are not accompanied by sufficient data and documentation.

If you are preparing to submit information on biodegradation, please be aware that EPA needs specific data on the levels to which PCB-contaminated sediment can be remediated, and on potential air emissions, water effluents or other potentially harmful by-products of the process. In addition, any information you can provide concerning engineering requirements and costs will be helpful since those inquiries must be part of any remedy decision. Finally, you should note that a meaningful discussion of the biodegradation issues cannot be held unless EPA has first had the opportunity to review the information you can provide on the matter.

Please feel free to contact either myself or Charles Bering to discuss an appropriate format, agenda, time and place for any meeting.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:

A handwritten signature in cursive script, appearing to read "Ellen M. Mahan", followed by a long horizontal flourish.

Ellen M. Mahan
Trial Attorney
Environmental Enforcement Section

cc: Frank Ciavattieri
Charles Bering
William D. Brighton